



The Children's Television Consortium

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APR 8 1997

Federal Communications Commission
Office of Secretary

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Sir:

Enclosed are the original and nine copies of our comments on the industry proposal for rating video programming (CS Docket No. 97-55). Our understanding is that one of these copies will be made available to each of the Commissioners.

Sincerely,

The Children's Television Consortium
d.b.a. OKTV™ (Our Kids TV)

By: *Richard S. Leghorn*
Richard S. Leghorn, President

RSL/jc

Enclosures

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

RECEIVED

APR 8 1997

Federal Communications Commission
Office of Secretary

In the Matter of	}	
	}	
The Industry Proposal for	}	CS Docket No. 97-55
Rating Video Programming	}	
	}	
	}	
To: The Commission		

COMMENTS OF OKTV™

Doing business as OKTV™ (Our Kid's TV), The Children's Television Consortium is a non-profit, non-stock Delaware Corporation approved by the Internal Revenue Service as a 501 (c)(3) charitable organization, with principal offices at 218 West Main Street, Hyannis, MA. 02655.

Previously OKTV's program was described October, 1995 in comments in MM Docket No. 93-48 (Policies and Rules Concerning Children's Television Programming). Those earlier comments are incorporated in these comments by reference. During the past 18 months this program has been advanced and modified in details. However, attracting financial and operational support has been slowed because of a general desire to evaluate the industry proposal expected by January, 1997, and now the subject of this proceeding. Depending on Commission decisions in this proceeding, OKTV expects to move forward vigorously, quite possibly as part of the unified health-based effort noted below.

Summary

The strong recommendation of these comments is that the Commission determine that the industry proposal is acceptable provided it is the intent of the Commission in the succeeding technical proceeding to ensure an open communication system over the nation's television infrastructure for television program ratings and related content information.

Such an open system will enable independent, qualified rating services in addition to industry services to distribute their rating and content code to parents, and will enable parents to select a rating service of their choice.

Desirably, to implement such an open system the industry will take voluntary measures, subject to review by the Commission in the succeeding technical proceeding. The key elements of such an open system are 1.) a universal ratings protocol such as described in appendix A; 2.) industry policies and procedures for inserting rating codes into line 21 of the vertical blanking interval at facilities of the industry; and 3.) qualifications of independent raters which would entitle them to carriage, particularly that their rating system is designed to meet Congressional concerns as articulated in Section 551 of the 1996 Act.

To make rating services available universally and at the earliest practical time, these comments suggest that measures be taken by industry, subject to Commission review, to ensure that rating codes distributed over line 21 can actuate blocking circuits in advanced set-tops as in future TV receivers. And to encourage efforts by the industry and others to make low-cost, single purpose set-tops available to low income

families in keeping with Congressional intent as expressed in Section 552, the Commission is urged to initiate an inquiry concerning actions taken or contemplated by concerned parties.

Most importantly, these comments and appendix B describe particulars and readiness of OKTV standards and its appraisal process. In keeping with Congress' concerns, these activities identify and rate programs which in fact raise risks of harm to children, based on credible scientific evidence. Also described are plans for disseminating ratings, content information and related codes via print and electronic transmission. The OKTV program is illustrative of an additional rating service which will be available to parents when an open communications system for ratings is in place.

Lastly, OKTV is currently discussing an initiative with The National Institute on Media and the Family (NIMF) of Minneapolis and the Recreational Software Advisory Council (RSAC) of Washington, D.C. to create a unified national, health based TV rating service which integrates the considerable work of these three and potentially other organizations. This initiative resulted from meetings of a coalition of medical and health organizations including the American Medical Association, American Academy of pediatrics, American Psychiatric Association, American Academy of Child and Adolescent Psychiatry and the American Psychological Association.

OKTV
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Mission

1. The mission of OKTV is to empower parents to protect their children at home from potentially harmful TV programs and to help parents identify healthy programs for their children as their children develop. In pursuit of its mission, OKTV 's objectives are to:
 - a.) identify and rate programs which in fact raise risks of harm to children, based on credible scientific evidence;
 - b.) disseminate timely information about program content so that parents can exercise their own judgement concerning what they consider harmful or otherwise inappropriate for their children to view;
 - c.) distribute content codes to TV sets and set-tops with blocking technology and digital memory so that parents, whether or not at home, can easily protect their children by blocking programming based on reliable information.

The Roadblock

2. Since its comments filed October 13, 1995, OKTV has accomplished much pursuant to its mission, particularly with regard to its child protection standards and an appraisal process for assessing program content in accordance with these standards. But the OKTV program in pursuant of objectives b.) and c.) above is frustrated because an open path is not assured for electronically communicating to parents OKTV rating and related content information. However, OKTV studies suggest that such an open communications path is feasible over the nation's television infrastructure, and can readily make available to parents OKTV rating information in addition to that of the industry.

3. The primary purpose of these comments is to suggest Commission and industry actions which could and should make such an open path available on the basis of a "level playing" field to qualified rating organizations, such as OKTV, in addition to

services of the television industry. A second purpose is to describe the OKTV program and the manner in which it will use such an open communication system to meet Congress' concerns as articulated in Section 551 of the 1996 Act. The resulting benefits to children and parents underscore the rationale for an open system. A third purpose of these comments is to suggest that in addition to benefits to children and parents, benefits to the industry from an open system and from availability of a service such as OKTV will be significant and warrant full industry cooperation and support.

A Unified National Program

4. OKTV is currently discussing an initiative with The National Institute on Media and the Family (NIMF) of Minneapolis and the Recreational Software Advisory Council (RSAC) to create a unified national, health based TV rating system which integrates the considerable work by these organizations, and potentially others with similar purposes. Basically, our joint view is that given the financial, operational, technical and marketing efforts that are required, a single non-profit, health based rating and information service at this time can best contribute a solution to this critical problem. This initiative resulted in part from meetings of a coalition of medical and health organizations including the American Medical Association, American Academy of Pediatrics, American Psychiatric Association, American Academy of Child and Adolescent Psychiatry and the American Psychological Association. This potential coalition of child health interests anticipates involvement by other professional, operational and advocacy organizations concerned with issues of child health and development as effected by television. Development of such a national rating service awaits the certainty of an open ratings communication system to justify completion of organizational and operational plans, refinement of standards and the appraisal process, and market testing prior to roll-out of a national service.

OKTV's Position

5. OKTV urges the Commission in this proceeding to determine that the industry proposal is minimally "acceptable" provided it intends in the succeeding technical proceeding to ensure an open system for communicating rating and content information over the nation's television infrastructure. Such an open system will enable parents to have access to a ratings service of their choice, and that rating services in addition to those of the television and motion picture industries to have a "level playing field" for communicating ratings and content information to parents.

OKTV'S Argument

6. In support of its position, OKTV offers the following :

- a.) Congress did not intend in Section 551 to grant the television industry monopoly rights in the field of rating services. That would be contrary to anti-trust principles and law. It would run counter to the Constitution and to First Amendment principles that government not favor one speaker, in this instance a particular rating service, over another.
- b.) Section 551 (a) of the Telecommunications Act of 1996 sets forth Congress' findings that there is a compelling governmental interest in empowering parents "to limit the negative influences of video programming that is harmful to children" (sub-section (a) (8)) and "in providing parents with timely information about the nature of upcoming video programming and with the technological tools that will allow them easily to block violent, sexual, or other programming that they believe is harmful to their children" (sub-section (a)(9)). Given this Congressional guidance the Commission in this proceeding seeks comment "whether the

industry proposal is 'acceptable'" and whether the proposal "satisfies Congress' concerns". The industry in its filing of January 17th suggests that in the absence of an explicit definition of the term "acceptable" in the Act or its legislative record, the only recourse for the Commission is to the general meaning of the word "acceptable" as set forth in Webster's dictionary. This is an erroneous conclusion based on a false premise. Guidance for the Commission as to the meaning of Congress' term "acceptable" lies not in a dictionary, but in Congressional intent, particularly as set forth in Section 551 (a)(8) and (9) of the Act.

- c.) The primary mission of OKTV is directly aligned with Congress' concerns noted above. Further, the OKTV system helps parents make program choices for their children according to their family's values. While Congress in this Act and in its legislative report focused on matters of harm to children and only by implication addressed the public health issues involved, the OKTV program explicitly addresses issues of harm to children as they relates to child development and health. To enable OKTV to help meet Congress' concerns the Commission should ensure an open path for TV ratings and content information in a manner for example as detailed in Appendix A of these comments.

- d.) In contrast to OKTV's primary mission to serve the interests of children, the primary mission of the TV industry is to serve the interests of its customers in a free competitive market. This they do with energy and talent. "Voluntarily" serving the public interest articulated by Congress in Section 551 is at best secondary to their primary function. Putting aside the quite apparent growing pains of the initial industry effort, the core of the industry's rating process relies on the voraciously competitive commercial networks to evaluate their own programs using a set of loosely defined rating categories, "TV Parental Guidelines". Each network applies these guidelines without standardized harm

prevention criteria or other explicit criteria for examining content. The industry rating process has certain weaknesses: namely, it does not uniformly focus on what research shows in fact "is harmful" to young viewers, it does not formally control for commercial, regional, racial or religious bias on the part of individual raters, and finally the industry rating process does not yield adequate amounts of meaningful information about the harmful content of TV programs or the content basis for its ratings. But all such criticisms of the industry's voluntary proposal are beside the point if parents have a choice to select other rating services which they believe can better protect their children.

- e.) Exacerbating conflicts between networks' free market function versus services "in the public interest", there is the difference between what the networks perceive to be harmful to children and what 20 years of objective research indicates is harmful. Even if the industry, of its own volition or in response to child activists and Congressional pressure, modifies its Jan. 17th proposal, the industry will never be able to fully overcome the fundamental conflict between its business objective and the objective of protecting children. Nor should the industry be expected to. Thus, although one might well give the industry an "A" for effort, one must look elsewhere for a solution which better meets the needs of parents and children.

- f.) If the Commission were to find the industry proposal unacceptable, the Commission's alternative under the 1996 Act is to establish an Advisory Committee of presumably balanced political and social views, and representing the large number of diverse interests concerned with issues of children and television. The threshold problem of such a course of action will be the inevitable "nanosecond" and undoubtedly vigorous First Amendment challenges asserting that such government intrusion into the realm of free speech is unnecessary, given the availability of adequate non-governmental alternatives.

Such a constitutional challenge would undoubtedly be strengthened by the availability of a health based rating program. Indeed, OKTV would likely join in such a challenge. Thus, hard-pressed parents would face indefinite delays before realizing the presumed benefits of Section 551. Further, even if the government were eventually to prevail in the litigation, the result of the multi-faceted Advisory Committee's efforts is problematic, given its composition the fact that participation from the child health community is not called for, and its likely focus on adult perceptions of harm. The result likely will be less responsive to Congress' expressed concerns than the voluntary effort by OKTV, or the industry proposal as it may be improved.

- g.) Extensive public comment to date has been forcefully critical of the industry's early implementation of its proposal of Jan. 17th. Even making allowances for a normal "learning curve" and improvements the industry assures will be made, there is certain to be continuing political and activist pressure to the effect that the industry proposal is not "sufficient" to cope with the problem at hand. That may be true, but that is not the issue. Given the industry's primary responsibility to serve free market demands, the industry can never provide a response "sufficient" to meet the compelling public and government interest in protecting children. The only way the Commission can effectuate solutions beyond that the industry offers is to prescribe an open communication path so that other rating services can reach parents on a fair and equitable basis. Indeed the television industry should welcome and cooperate with qualified independent rating services to bring relief from political and other distractions from its primary objective of serving its customers profitably.
- h.) Ergo, the Commission should without further ado determine that the industry proposal of Jan. 17th is "acceptable" in a minimal, improvable sense, and the

Commission should focus its energy on ensuring an open path for communicating qualified ratings to parents in addition to those of the industry.

An Open Communication System for Ratings and Related Information

7. Either the industry must voluntarily take measures satisfactory to the Commission to ensure the availability of an open communication system for independent ratings and related content information, or the Commission must prescribe regulations to this effect. These comments assume the former and address measures the industry can take to effect such an open system. It seems clear that the strong preference of Congress is for a voluntary solution by the industry, to technological issues as well as to rating issues. For in section 551 (c)(3) dealing with the transmission of blocking signals over line 21 of the vertical blanking interval, the statute speaks of "oversight" and "supervision" by the Commission of standards and specifications established by the television industry. The open communication system for ratings and related information must allow parents (1.) to select and use a qualified rating system of their choice; (2.) to select individual programs based on content information optionally provided by rating services; and 3.) to over-ride the system to select programs based on their judgement and information secures from other sources.

8. There are three measures to be taken in this regard. First, the industry must adopt a universal ratings protocol for transmission of rating codes from diverse sources. Second, the industry must adopt standards to qualify such ratings services, e.g., OKTV, and third, the industry must adopt explicit policies and procedures for receiving and inserting independent rating codes onto line 21 at points where television transmissions originate.

9. The core of the open communication system for ratings is a transmission protocol. The Electronic Industries Association has adopted private Standard 608A which can be used in the Commission's Extended Data Service (EDS) and undoubtedly will be so proposed in the Commission's succeeding technical rulemaking regarding use of Line 21 for transmitting ratings (Section 551(c)(3) of the 1996 Act). There is a mistaken assumption that the manner in which the TV industry may propose that its standard be incorporated in this "electronic space" will prevent its use for other rating services or will take up so much "space" as to effectively preclude use of line 21 for distributing codes of other rating services. For example, *U.S. News & World Report, Page 46 of its issue of March 17, 1997 issue, erroneously states* ". . . the V-chip will be hard-wired for one particular ratings system." This need not be the case even if earlier contemplated by the industry. EIA Standard 608A can be adapted to function as a universal ratings protocol i.e., one which can transmit rating codes of other rating services in addition to those of the industry. However, unless the Commission in this proceeding has reasons to conclude that the industry will in fact adopt a universal ratings protocol, the particulars of which can be specified in the technical proceeding to follow, the Commission will be hard pressed to justify that the industry rating program is "acceptable".

10. Appendix A to these comments describes two alternatives for a universal ratings protocol prepared by the Ashfield Consulting Group. Ashfield's President developed an earlier version as Executive Vice President of OKTV. Both of the attached alternatives are compatible with EIA Standard 608A. Both can be used to distribute not only blocking codes of the TV industry plus HBO and Showtime ratings based on MPAA categories, but also independent services such OKTV's or the contemplated national health based system. Further, content information of other ratings services can be called up for display on-screen by parents with set-tops or TV sets with sufficient memory.

11. The first alternative can carry supplemental information for only five of the six OKTV content categories. Therefore, the second protocol is recommended by OKTV. This "Perlman" protocol, identified after its developer, treats eight rating services equally, including the two industry services. For illustrative purposes, codes for the TV industry plus OKTV codes are shown in Appendix A. A variant of this protocol could be adopted to serve more services if there were a credible requirement to do so. Also noteworthy, the "Perlman" protocol is more efficient in reducing "latency", i.e., the time it takes a set to make a channel change. Prior to the technical proceeding to follow, OKTV intends to propose to the industry adoption of the Perlman's protocol, possibly modified by comment in this proceeding.

12. In addition to a universal ratings protocol, a second requirement for an open ratings communication system is standards for qualifying rating sources. These must specify the number and manner of using bits allocated to each service. Services should make publicly available information regarding their objectives, criteria and manner of evaluating programs. To qualify, the objective must be in keeping Congress' concerns as expressed in Section 551.

13. As a third requirement, codes from an independent ratings organization such as OKTV, must be inserted appropriately into line 21 of the vertical blanking interval of program distributors, such as at network studios or transmission facilities.

14. Preferably industry will voluntarily adopt adequate policies and procedures regarding these requirements. But in any event, the Commission must appropriately consider these issues during its forth-coming technical proceeding to assure that qualifying independent rating services can as accessible to parents as those of industry.

16. OKTV urges the Commission in this proceeding to state its intent to ensure an open system, with details to be reviewed in the technical proceeding to follow based on measures presumptively to be adopted by the industry. This will enable organizational, financial and business planning to proceed by independent services such as OKTV or the contemplated national health based initiative under discussion. Such a statement of intention should not be difficult for the Commission to make. Anti-trust policy and law require that the Commission not take action to favor one rating service over another, particularly as technology is readily available to accommodate multiple services in an even-handed manner. Further, ratings such as OKTV's are a form of speech whose distribution over the public spectrum the Commission can hardly disadvantage in relation to speech of the television industry. The pervasive, loudly expressed and deeply felt need of parents and child activists that something be done quickly to provide rating services more satisfactory than the industry's current offering, warrants a prompt statement of the Commission's intent with regard to an open system.

**Benefits to the Industry from Supporting
an Open Communication System for Ratings**

17. Supporting an open communication system for ratings will benefit the TV industry in substantial ways. First, the availability of an additional service such as OKTV or that of the contemplated national health based program will relieve the industry of much political and child activist pressure to modify its ratings proposal in a manner the industry believes is impractical or contrary to its commercial interests. Parents who object to the industry proposal will have alternatives from which to choose. The role of business in a free market society is preferably to serve its customers. Business should not be distracted by pressure or regulation to do otherwise when alternative means are available to serve public interests.

18. Most importantly, the OKTV program will help the industry deal with its major First Amendment problem, ironically caused by children in TV audiences. The compelling government interest in protecting children from potentially harmful TV has led to a thicket of regulations, laws and court decisions whose effect is to restrict the content of TV programs intended for adults when numbers of children may be in the audience [An excellent discussion and survey of relevant legal decisions can be found in an essay by Lawrence H. Winer, "*Children are not a Constitutional Blank Check*" from *Rationales and Rationalizations*, The Media Institute, 1997]. There seems no limit to the tightening of governmental "safe harbor" restrictions. In a June, 1995 decision affirming the Commission's rules extending to 10 PM the "safe harbor" period for excluding indecent material as defined by the Commission, the Court *in dicta* indicated that it would be constitutional to restrict the commencement of the "safe harbor" to midnight. Also, Senator Hollings' earlier bill to extend "safe harbor" provisions to include violent material has now been reintroduced as S.363. And as a result of a combination of technical factors and the recent procedural decision of the Supreme Court in the Playboy case, it will be impractical for the industry to display from 6 AM to 10 PM pay-per-view programs falling within the Commission's standard for indecency. However, the OKTV program, in providing a means to separate child audiences from adult audiences "in space" rather than "in time", can help industry and First Amendment activists resist and prospectively reverse this legal trend ever since the *Pacifica* decision in 1978. And American society will be more and more able to avoid, as Justice Frankfurter put it, "reducing the adult population to reading only what is fit for children".

19. From a purely business perspective, as the need diminishes for government to restrict the content of programs intended for adults in order to protect children, producers and distributors will be better able to create and deliver to adults more of what they want, when they want it, with all the attendant commercial benefits of a free market. Furthermore the OKTV program will segment the television market so that

those advertisers wishing to reach parents can more efficiently do so. Segmentation of the market and the resulting diversity of programming have increased greatly as the world of television has grown from the three broadcast networks of the 1950's to the multiple dozens of networks now available in expanding numbers. By freeing advertisers from hazards of boycotts resulting from warning labels, OKTV service can further extend audience segmentation for advertisers, and thus increase diversity of programming for child and parent viewers. Cries of audience "fragmentation" may again be heard, reminiscent of the networks of the fifties resisting encroachment of new services. But the golden rule of commerce will eventually prevail as those advertisers who want to reach parents with children insist on placing their "gold" on programs safe for children and free of warning labels.

20. Lastly, there is much complementarity between OKTV and industry rating services. OKTV service offers protection for infants and toddlers, whereas the industry has scant commercial interest in that audience segment. On the other hand, the industry has a major interest in the buying power of teenagers, an audience segment for whom OKTV has deferred offering protective services for the time being. And standards of the TV industry, because of competitive needs to attract as large an audience as possible, are less strict. To use a nutritional analogy, the industry would want to offer children inappropriate amounts of "candy" to attract the most "eyeballs", whereas OKTV service would offer more candy-free choices. Many of parents will welcome a choice.

21. Clearly there are more complementary than confrontational aspects of the two service proposals. And because of the strong benefits to the industry as noted, there is little reason for the industry not to join in a cooperative endeavor to further the interests of parents and children.

OKTV Standards and Appraisal Process

22. The work to date at OKTV has been accomplished by a multi-disciplinary team of specialists in pediatrics, child and adolescent psychiatry, child psychology, television technology, production and distribution. Together they worked with a sizable budget for more than two years, unencumbered by commercial or government influence. The OKTV team reviewed published and unpublished work, incorporated the viewpoints of many others, and reviewed national studies and the rating systems of other countries. Background of the members of the OKTV Advisory Board and OKTV Staff are summarized in Appendix C of these comments.

23. OKTV developed a set of *six content focused standards* for evaluating TV programs from the perspectives of what in fact poses potential harm to child health and development. To apply the standards, OKTV has also developed and tested for validity and reliability *an appraisal process* to assess children's television programs. OKTV has adopted *policies* for determining which genre of programs need to be appraised, and not to be appraised, i.e., those which are clearly intended for adults and not for children.

24. OKTV standards are rooted in objective and observable factors evidencing potential harm to children. They reflect issues relating to child health and development which are practical, reliable and free of commercial or governmental influences. The standards identify elements of television which cost health care dollars and have been shown by medical research and social science to raise risks of behaviors and symptoms in children and teenagers. These include imitation and desensitization related to violent behavior, risky sexual behavior, and severe fears such as those which interfere with sleep and school attendance, not to mention more serious anxiety disorders.

25. The standards are *content-focused* and address six content categories. In addition to the three stand-by categories of violence, sex, and language, OKTV has developed content standards for assessing horror, illegal or harmful behavior, and nudity. Horror is an underemphasized category of harm, likely to portend an event of violence, anger, or intent to threaten or cause harm. Nudity is separated from sex for reasons supported by research to address cultural situations where viewing of nudity is acceptable and not harmful. Illegal and harmful behavior adds another strong element for child protection where unlawful or unsafe behavior if imitated by children can place them at risk.

26. Further, each content category is organized to address the stage of a child's growth as broadly agreed by the child health and development community. The standards take account of potentially harmful events depicted on television when either infants and toddler viewers (birth to 36 months), or early childhood viewers (3-7 years), or middle childhood viewers (8-13 years) are in the audience either alone or with adults (co-viewing). Because parents should always be with toddlers viewing TV, OKTV thus identifies programs not harmful for the above five audience groups, include co-viewing audiences. In the future this appraisal process may extend its audience group to address the teenagers.

27. In applying the standards, appraisers refer to a clear and comprehensive questionnaire for each appraised episode. The resulting OKTV appraisals produce reliable and contextually based information in six content areas, which also reflect the developmental appropriateness for the three age groupings. Built into this appraisal process are provisions to deal with issues of cumulative effects. The results make it possible to give parents sufficient information to make informed viewing choices for their children and families.

28. To test the effectiveness and precision of the standards and the appraisal questions, a pilot test was conducted and the standards and appraisal process refined. Inter-rater reliability was good among three raters when assessing sixteen series of very different genres looking at four episodes in each series. The data on each show is plentiful and offers numerous options as to how the content and age related information can be presented on-screen, coded for blocking, and disseminated in print for parental use. An example of the kind of information OKTV is planning to issue is shown in the three sample Content Reports in Appendix B.

29. A significant issue relates to the practicality of any rating process other than the industry's. In its submission January 17th to the Commission, the industry states that its system "is the only feasible way in which the 2000 hours of television programming distributed every day could be rated". This is a misleading assertion of a false conclusion based on a wrong premise. A system to assure parents that inappropriate programs are not displayed does not require that all programs be rated and the ratings displayed. Indeed, the industry itself proposes to rate only certain episodes of a series and not to rate sports and news programs, many of which are clearly harmful to young children. The sole requirement for a system using blocking technology is that only programs safe for children be displayed. In a practical sense, this means that a number of programs be rated sufficient to provide a child with a reasonable menu of choices. Considering that OKTV will appraise only a statistically valid number of episodes in a series, that news and sports of various genre will be rated as a whole without appraising individual programs, that home shopping and "how to" programs can similarly be dealt with, and that programs displayed after, for example, 9 PM will not be appraised, OKTV estimates that on average 200 programs - not 2,000 - need to be appraised daily. This can be achieved, based on pilot test results, with about 100 part-time, carefully selected and trained appraisers whose background experience may be that of TV producers, distributors, parents, grandparents, or child health and other

professionals. Qualified elderly and handicapped persons need not be excluded in the recruitment process.

Contemplated Dissemination of OKTV Information
Over Line 21 and Otherwise

30. Because it distributes both rating codes for blocking technology and detailed content advisories, OKTV's program meets the purposes of Section 551: parents will be both timely informed through OKTV content advisories and enabled to block display of programs potentially harmful for their children to view.

31. OKTV has identified practical means for disseminating timely health based content information to parents and codes for blocking technology in their TV sets and set-tops. Its dissemination policies are designed to underscore the positive, "OK" aspects of television and eschew its negative aspects connoted by warning and cautionary labels. It is important to note that child development principles stress the advantages of providing children with choices of what they may do, rather than continuous messages of what they are not to do.

32. OKTV dissemination plans differ from the industry's in four significant ways. First, OKTV plans to distribute content information in addition to ratings as basic advice to parents. Second, OKTV plans to make its standards and content reports available to the public generally as well as to other rating services including the networks. Some of these services may wish to integrate OKTV standards as a core protective element in their rating process or use OKTV content reports as background advice. Whereas the nature of values portrayed by the entertainment industry vary enormously in a pluralistic society, standards to protect against harm to children and to further child health and development, when based on scientific research, are generally applicable to

all children and will increasingly be accepted as such across all segments of American society.

33. OKTV ratings will be made available for inclusion in television schedules, newspapers, magazines and electronic program guides (EPG). OKTV content reports will be available on a Web site, in its newsletter and for general distribution to print and electronic media. Of additional importance, when OKTV codes block programs, the set will either tune to the next OK program, or if an EPG provider so chooses, display a menu of OK programs "now showing" on other channels. The above provisions will ensure that OKTV content advice will be timely available to all parents, whether or not equipped with blocking technology in their sets or set-tops.

34. Third, unlike the industry, OKTV is planning that its rating icons and content information will not appear on-screen. A final determination will await market testing. The principal factor arguing for on-screen display of icons is that today many concerned interests groups and parents assert they need information provided in this manner because it is most timely and convenient for parents. But children also view these icons. Such an accommodation for adult wishes may not properly weigh the interests of children or their abilities to properly evaluate such information. This, of course, is the theory behind all "safe harbor" regulation and society's innumerable restrictions and physical restraints in order to protect children. There are many reasons to exclude OKTV ratings information from "on-screen" display as warning labels:

1. Despite denials by the motion picture industry, children are attracted to forbidden entertainment as MPAA-rated theatrical exhibition amply demonstrates, and as fully supported by considerable research on children and television [Cantor, Harrison, Nathanson (1995) "*Ratings and Advisories for Television Programming.*" National Television Violence

Study: Vol.2, Sage Publications.]

2. There will be an adequate number of other sufficiently timely sources of OKTV advisories available to concerned parents without the need for on-screen warning labels. These will include OKTV ratings in TV print schedules and electronic program guides as well as a capability for parents with advanced equipment to call up "on-screen" OKTV content information at their discretion.
3. Warning labels deter certain advertisers out of concerns about boycotts or threatened boycotts.
4. From an operational viewpoint, OKTV will not need to rate nearly as many programs as required to display warnings. Parents are assured only that harmful material is not displayed. Further in this regard, because the OKTV blocking system passes only programs not harmful to children, and does not pretend to present all programs which may not be harmful, OKTV service has no need to display all live programs or programs finalized shortly before transmission time. When parents believe such programs are important for their children to view, they can readily override the system so that their children can view the program by themselves or with their parents.
5. Also from an operational viewpoint, producers and networks who believe that a certain program meets OKTV standards and should not be blocked simply because it has not yet been appraised by the OKTV staff will be motivated to make available to the appraisal staff tapes of this program in timely fashion.

6. Given the First Amendment's prohibition against compelled speech and the availability of other means for parents to obtain such information, it is unlikely that TV networks can be induced or be required by government to incorporate in their programming next to their own icons, the icons or advisory information provided by OKTV or other independent services.
7. Lastly, the analogy sometimes drawn between the need for food labels and the need for on screen TV warning labels is a false analogy. Foods harmful to children are also harmful to adults and thus not placed on shelves. However, programs harmful to a child's health or development are generally not harmful to adults.

35. Fourth, the OKTV system will be enabling parents in effect to convert their regular TV set into a set for children - their very own TV. These "virtual" sets, will operate whether or not parents are with their children. Programs will not appear unless they are safe for children to view. Thus, OKTV services will place television for parents and children in a positive light and avoid negative perceptions engendered by warning and cautionary labels. Even more importantly, this manner of separating programs safe for children from programs intended for adults will contribute enormously to strengthen First Amendment values in our society as elaborated in ¶ 19. While industry ratings could be used in such a manner, the fact that they also appear on-screen and elsewhere as *warnings*, would make such a presentation on a children's TV set confusing and implausible. A guide to what may not be OK for viewing can hardly be used also as a guide for what is OK for children to view.

36. A widely discussed "issue" is whether ratings should be age based or content based. This is a false, misleading and distracting issue. Stating in this fashion what should be a non-issue confuses two substantive matters. First, assessing programs to

identify potentially harmful content must take into account the developmental stages through which children pass - toddler, early childhood, middle childhood, and late childhood or adolescence. Age is the best marker for these stages e.g., 3-7 years identify the early childhood stage. Content harmful for one stage may not be harmful for another stage. Thus, assessments of content for harm must take into account stages of development, i.e., ages. This is not a point at issue.

37. The second matter relates to the distribution of rating information. Here the question is what rating information should be distributed to parents and what information to children. Parents one way or another should have access to all such information if they want it, but children? Research suggests their well being is best served by not being exposed to ratings information, at least on-screen. Blocking technology can provide rating information to parents and none to children, as the OKTV system is constructed. However, where blocking technology is not available, the issue of on-screen display is subject to reasonable argument. Unless market testing indicates otherwise, OKTV will not display rating information on-screen because it may attract children to "forbidden" programs, or dissuade them for viewing constructive programs rated for a younger age.

38. Thus, the issue is not at all age based vs content based ratings. The only issue is whether or not rating information should be displayed on-screen to children. OKTV has taken the tentative position that the disadvantages of such displays for children outweigh benefits for parents.